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PROPERTY AND SPECIAL TAXES DEPARTMENT
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March 23, 2007

TO: INTERESTED PARTIES

Enclosed is a copy of Current Legal Digest (CLD) number 2007-2 for your information and review. The annotations included in this CLD are new proposed annotations (underlined) and/or suggested revisions or deletion of existing annotations (indicated by strikeout and underline). After review, please submit any questions, comments, or suggestions for changes *in writing* by **Monday, April 23, 2007**. These may be sent by e-mail using the "Comments Form" on the Board's website (www.boe.ca.gov/proptaxes/cld.htm), fax or mail. Here is the mailing address:

Board of Equalization
County-Assessed Properties Division
ATTN: Annotation Coordinator
P. O Box 942879
Sacramento, CA 94279-0064

Please note, the new annotations and/or suggested revisions of existing annotations contained in the enclosed CLD are *drafts* and may not accurately reflect the Board's official position on certain issues nor reflect the language that will be used in the final annotation, if formally adopted.

CLDs are circulated for 30 days, at which time any questions are addressed and/or suggested modifications taken into consideration. After approval of the final version by the Board's Legal Department, the changes will be posted to the Board's website under "Annotations" (www.boe.ca.gov/proptaxes/annocont.htm). After all proposed changes have been resolved, the CLD will become obsolete and deleted from the website.

This CLD is posted on the Board's website at www.boe.ca.gov/proptaxes/cld.htm. Copies of the backup correspondence are linked to each annotation via the annotation number. If a link does not work, please let us know by using the "Comments Form" on our website (www.boe.ca.gov/proptaxes/cld.htm). If you have any questions, please contact Glenna Schultz at 916-324-5836.

Sincerely,

/s/David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG/grs
Enclosure

PROPERTY AND SPECIAL TAXES DEPARTMENT

PROPERTY TAXES CURRENT LEGAL DIGEST NO. 2007-2

March 23, 2007

200.0000 BASE YEAR VALUE TRANSFER—PRINCIPAL RESIDENCE

[200.0077](#) **Owner.** Since a life tenant holds the dominant or primary interest that is substantially equal to the value of the fee interest, an owner of a life estate can be an "owner" for purposes of both the homeowners' exemption under Revenue and Taxation Code section 218. Thus, upon meeting the other requirements of section 69.5, the owner of a life estate may qualify for a base year value transfer. C 12/18/2006.

[200.0129](#) **Time Limits.** Section 2(a) of article XIII A of the California Constitution and Revenue and Taxation Code section 69.5 require that a replacement dwelling be purchased or newly constructed within two years of the sale of the original property. This two-year period is mandatory, and neither article XIII A nor section 69.5 provides for an extension of this two-year period. C 12/18/2006.

210.0000 CALIFORNIA LAND CONSERVATION ACT

[210.0025](#) **Public Agency.** The purchase of property subject to a California Land Conservation Act contract by a public agency, if not by eminent domain or in lieu of eminent domain, does not cancel the contract. The property is subject to tax under section 11, article XIII of the California Constitution, if (1) the situs of the property acquired is outside the boundaries of the public agency, and (2) the property was taxable when it was acquired. C 10/25/2006.

220.0000 CHANGE IN OWNERSHIP

[220.0149](#) **Deed Presumption.** While the owner of the legal title to property is presumed to be the owner of the full beneficial interest, this presumption may be rebutted by clear and convincing evidence. Property Tax Rule 462.200(b)(2) sets forth the types of documentary evidence that may constitute clear and convincing evidence sufficient to rebut the deed presumption. C 9/25/2006.

[220.0258](#) **Individual Retirement Account.** When a taxpayer is both the custodian and only beneficiary of her individual retirement account (IRA), a transfer of real property from the IRA to herself as an individual is merely a change in the method of holding title without any change in the right to beneficial use. Since taxpayer has the same beneficial ownership before and after the transfer, there is no change in ownership. C 12/8/2006.

260.0000 CONFIDENTIAL RECORDS OF TAXPAYER

[260.0001](#) **Building Records.** An assessor may not provide building record information to a local fire district because such information is not required by law to be kept or prepared and is, therefore, not a public document. C 6/26/80.

Delete – Revenue and Taxation Code section 408.3 specifically provides that property characteristics information, including square footage, is a public record.

290.0000 COUNTY ASSESSOR

[290.0050](#) **Records.** ~~The assessor may not provide information from his or her records concerning the size (square footage) of buildings on the assessment roll to a local Public Utilities Commission, since it is not information required by law to be kept or prepared by the assessor and since the Commission is not an agency specifically authorized by Revenue and Taxation Code section 408(c) to have access to such records. C 9/22/81.~~

Delete – Revenue and Taxation Code section 408.3 specifically provides that property characteristics information, including square footage, is a public record.

[290.0052](#) **Records.** ~~Codes developed and utilized by the assessor to classify property in his or her county by type and use are not required by law to be kept or prepared by the assessor and, hence, are not open to public inspection (Revenue and Taxation Code section 408(a)). C 5/2/86.~~

Delete – Revenue and Taxation Code section 408.3 specifically provides that property characteristics information, including use codes, is a public record.

550.0000 LANDS OWNED BY LOCAL GOVERNMENTS THAT ARE OUTSIDE THEIR BOUNDARIES

[550.0008](#) **Land Conservation Act Contract.** The purchase of property subject to a California Land Conservation Act contract by a public agency, if not by eminent domain or in lieu of eminent domain, does not cancel the contract. The property is subject to tax under section 11, article XIII of the California Constitution, if (1) the situs of the property acquired is outside the boundaries of the public agency, and (2) the property was taxable when it was acquired. C 10/25/2006.

625.0000 PARENT-CHILD TRANSFER

[625.0212](#) **Trusts.** ~~A transfer by parents to a trust for the benefit of a child or children is eligible for the parent/child exclusion, assuming all requirements of Revenue and Taxation Code section 63.1 are satisfied. However, any transfer of remainder interests in the trust to grandchildren would not qualify, as the grandchildren would take their interests from the grandparents, not the parents. C 10/24/88.~~

Delete – This is no longer correct since the passage of Proposition 193 (grandparent-grandchild exclusion) in 1996.

880.0000 WELFARE EXEMPTION (IN GENERAL)

[880.0099](#) **Exclusive Use.** Revenue and Taxation Code section 214(a) requires that property for which the welfare exemption is claimed be used exclusively for religious, hospital, scientific, or charitable purposes. If a property is used primarily for exempt purposes, the term "exclusively" does not preclude activity that is merely incidental to the charitable purpose. However, uses found to be largely commercial in nature are viewed as disqualifying uses. If a portion of the museum is used for a fee by for-profit corporations, other non-exempt organizations, and individuals for business social functions, receptions, and private parties, the museum is eligible for a partial exemption. Areas of the museum that are not used exclusively for the exempt purpose do not qualify for exemption. C 12/1/2006.